

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,	)	
	)	Case No. 2:15-cv-11946-GCS-RSW
Plaintiff,	)	
	)	
v.	)	
	)	
JACK V. GIACALONE,	)	
	)	
Defendant.	)	
_____	)	

**MOTION BY UNITED STATES FOR DISCOVERY SANCTION**

The United States of America moves this Court pursuant to Rule 37(b)(2)(A) for an order increasing from \$1,100 to \$3,500, the monthly payment amount that Jack Giacalone will be required to pay the United States beginning on July 1, 2020. As grounds for this motion, the United States avers and argues as follows:

1. On March 12, 2020, the Court entered an installment payment order [doc. 42] requiring Giacalone to make monthly payments to the United States in the amount of \$1,100 (less any amount actually paid to the Internal Revenue Service for current taxes) beginning on April 1, 2020. The order also provides that “if Jack Giacalone fails to comply with any discovery orders of this Court, then upon application of the United States, and in addition to any other coercive sanctions the Court may impose, the monthly installment payment amount shall increase to \$3,500.”
2. On the same day, March 12, the Court entered a detailed order [doc. 43] compelling Giacalone to answer the Government’s discovery
3. On April 6, the Court entered an order [doc. 46] granting Giacalone’s request to postpone the date of his first installment payment from April 1 to July 1, but

emphasized that the suspension of his payment obligation did not affect his continuing discovery obligations in the meantime.

4. Giacalone has not produced any of the information or documents required by the Court's March 12 discovery order.
5. Rule 37(b)(2)(A) of the Federal Rules of Civil Procedure provides that when a person has failed to comply with an order compelling discovery, the court may issue "further just orders." The rule also provides a non-exclusive list of sanctions that might be imposed, including contempt. In light of this Court's prior ruling [doc. 42] that Giacalone's failure to comply with a discovery order "shall" lead to an increase in his monthly payment amount to \$3,500, the United States at this time limits its request for sanctions to precisely that, the imposition of a monthly payment amount of \$3,500 (less any amount actually paid to the Internal Revenue Service for current taxes), beginning on July 1, 2020, and continuing until the judgment debt in this case is satisfied. The United States may seek additional coercive sanctions at a later date if Giacalone continues to flout the Court's discovery order.
6. Pursuant to Local Rule 7.1(a)(2), counsel conferred by telephone on June 1, 2020, but the parties could not concur with respect to the relief requested by way of this motion.
7. A proposed order granting this motion is being submitted along with this motion.

WHEREFORE, the United States moves this Court, as a discovery sanction, to increase the monthly payment due under Jack Giacalone's installment payment order [doc. 42] from \$1,100 to \$3,500, less any amount actually paid to the Internal Revenue Service for current taxes.

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